

Decision 06-02-022 February 16, 2006.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of El Corre Caminos, Inc. dba El Corre Caminos, to acquire and Jose Luis Ayala-Aroche, an individual dba El Corre Caminos to transfer a certificate of public convenience and necessity to operate as a passenger stage corporation and certain other assets (PSC-11518) and to amend the same.

Application 05-06-036
(Filed June 20, 2005)

O P I N I O N

Summary

This decision grants the application (1) to transfer, pursuant to Pub. Util. Code § 851 et seq., a passenger stage corporation (PSC) certificate from Jose Luis Ayala-Aroche, an individual, to El Corre Caminos, Inc. (ECC), a corporation, (jointly Applicants) and (2) to modify the PSC certificate being transferred.

Discussion

Ayala-Aroche holds a certificate to operate as a passenger stage corporation (PSC-11518). The certificate, granted by Decision (D.) 99-03-042, authorizes several on-call and scheduled services. One is an on-call airport service between points in San Bernardino and Riverside Counties, on the one hand, and Los Angeles (LAX), Ontario (ONT), and San Diego (SAN) International Airports, on the other hand. The others are scheduled services (1) between the international border crossings at San Ysidro and Otay Mesa, and (2) between the Cities of Pomona and Fontana, on the one hand, and San Ysidro and Otay Mesa, on the other hand, serving intermediate points. The certificate also

authorizes on-call service to pick up and drop off passengers in the Pomona and Fontana areas in conjunction with the scheduled service to San Ysidro and Otay Mesa.

The application, as amended by letter dated December 30, 2005, requests approval to transfer certificate PSC-11518 to ECC, a corporation that is owned and controlled by Ayala-Aroche and his immediate family. Ayala-Aroche will continue to be actively engaged in the business and has been appointed president of ECC. ECC will acquire motor vehicles, shop equipment, and other assets from Ayala-Aroche upon approval of the transfer. Ayala-Aroche and the other shareholders will provide all necessary funding for ECC to conduct its business. The application contains balance sheets for Ayala-Aroche (Exhibit D) and ECC (Exhibit E), which disclose net worth of \$166,544 and \$5,000, respectively.

Applicants request to make several modifications to the certificate being transferred as follows:

a) Elimination of Service

Applicants wish to eliminate services that they maintain are no longer economically viable. One is transportation to and from LAX, ONT, and SAN. Applicants state that their typical clientele do not utilize air travel, and it is very rare to receive a request for airport transportation. There are competing carriers in the area who conduct very frequent and regular airport services. Applicants also ask permission to eliminate from their scheduled service the stop points of Otay Mesa, Sun City, Murrieta, Escondido, and Corona. Applicants indicate that requests for service at these points are very infrequent.

b) Transportation of Express Shipments

Applicants desire to transport parcels and packages (“express”) incidental to the transportation of passengers. Such transportation is recognized by the Pub. Util. Code and the California Vehicle Code (CVC) as a legitimate adjunct to a passenger stage operation.¹

Applicants indicate that based on experience there is a demand for such service.

c) Revise Routes

Applicants request to add Perris to the current termini of Pomona and Fontana at which scheduled service can begin and end. This will allow for better utilization of vehicles, more efficient routes, and provide a better service to customers. Applicants also seek authority to operate between these three cities. Applicants state that requests for such service are occasionally received, but the service cannot currently be provided because of a restriction in the certificate requiring passengers to commence or finish their journey at San Ysidro. Lastly, Applicants desire to eliminate the requirement that passengers seeking service at certain points make a prior reservation. They state that reservations cause service disruptions to occur because passengers with reservations frequently turn up late and expect the bus to wait for them.

¹ Pub. Util. Code Section 225 provides that “passenger stage” includes vehicles used in the transportation of persons or baggage or express, when such baggage or express is transported incidental to the transportation of passengers. CVC Section 34601 excludes from the definition of “motor carrier of property” a passenger stage transporting baggage and express incidental to the transportation of passengers. The transportation of property by motor vehicle for compensation is otherwise subject to licensing by the Department of Motor Vehicles.

d) Limit On-Call Service

The certificate authorizes on-call service in conjunction with scheduled service. Under this authority, local pick-up and drop-off service is provided in the Fontana and Pomona areas to passengers who are traveling to or from San Ysidro. Applicants desire to eliminate the pick-up service only because any traffic delays that occur while the on-call passengers are being picked up can severely disrupt the ability to maintain the advertised schedule on the long distance service. Delays that might occur while dropping off passengers do not have this same impact on the schedule. Applicants therefore propose to continue the drop-off service as a convenience to their passengers. Applicants also request that the PSC certificate be simplified by combining the two on-call areas described as "Fontana Service Area" and Pomona Service Area" into a single service area.

ECC will adopt Ayala-Aroche's tariff currently on file with the Commission, which includes a zone of rate freedom. For the requested new services, ECC proposes to charge one-way fares of \$22 between Perris and San Ysidro and \$8 to \$10 on the Perris-Fontana-Pomona intercity service. Other tariff and timetable revisions will be made as necessary to reflect other changes to the certificate authorized by this order.

Notice of filing of the application appeared in the Commission's Daily Calendar on June 24, 2005. A notice of the application was served on the affected cities and counties

In Resolution ALJ 176-3155 dated June 30, 2005, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received.

Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3155.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Ayala-Aroche is operating as a PSC pursuant to D.99-03-042.
2. Applicants request approval to transfer certificate PSC-11518 to ECC.
3. Applicants request to modify the certificate to be transferred to eliminate some service points and to add others, to authorize the transportation of express, and to modify certain service conditions.
4. The proposed transfer will not be adverse to the public interest.
5. Applicants have demonstrated that public convenience and necessity requires the requested expanded PSC services.
6. Applicants have given good reason why certain PSC services should be eliminated and others modified.
7. No protest to the application has been filed.
8. A public hearing is not necessary.
9. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized.
2. Public convenience and necessity has been demonstrated and the requested to extend the authority to be transferred should be granted.

3. The request to eliminate or modify certain services is reasonable and justified.

4. Since the matter is uncontested, the decision should be effective on the date it is signed.

5. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Within 120 days from the effective date of this decision, Jose Luis Ayala-Aroche, an individual, may transfer his certificate of public convenience and necessity (CPCN) to operate as a passenger stage corporation (PSC) specified in this application to El Corre Caminos, Inc. (ECC), a corporation. ECC is authorized to modify the CPCN to operate as a PSC, subject to the conditions contained in the following paragraphs.

2. ECC shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Within 120 days after this order is effective, adopt Ayala-Aroche's tariffs and file new tariffs and timetables for the extended service, state in them when the service will start, make them effective 10 or more days after this order is effective, and allow at least 10 days' notice to the Commission.
- c. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- d. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.

- e. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- f. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- g. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. ECC is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to ECC that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of ECC's vehicles for service.

4. The CPCN granted to Ayala-Aroche by Decision 99-03-042 is revoked on the date ECC is notified that it may commence operations as provided in Ordering Paragraph 3.

5. Before beginning service to any airport, ECC shall notify the airport's governing body. ECC shall not operate into or on airport property without authority from the airport's governing body.

6. The CPCN to operate as PSC-19204, granted herein, shall expire unless exercised within 120 days after the effective date of this order.

7. The Application is granted as set forth above.

8. This proceeding is closed.

This order is effective today.

Dated February 16, 2006, at San Francisco, California.

MICHAEL R. PEEVEY

President

GEOFFREY F. BROWN

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

Commissioners

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-19204

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Supersedes the authority heretofore granted to
Jose Luis Ayala-Aroche, an individual, by Decision 99-03-042.

I N D E X

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

This certificate supersedes all passenger stage operative authority granted to Jose Luis Ayala-Aroche.

El Corre Caminos, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage, and express on a scheduled and on-call basis between the points described in Section II, over the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- a. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- b. Scheduled service shall be operated only at the designated service points as described in Section II. A description of all stop points and the arrival and departure times from such points shall be indicated in the timetable.
- c. The intercity or intracity transportation of passengers is not authorized except as described in Section III.
- d. The term "on-call", as used, refers to service which is authorized to be rendered dependent on the demands of passengers.

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS (CONTINUED).

- e. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.
- f. The transportation of express shall be on passenger-carrying vehicles and shall be incidental to the transportation of passengers and limited to a weight of not more than 100 pounds per shipment.

SECTION II. SERVICE AREAS.

- A. San Ysidro (City of San Diego), Temecula, Perris, Moreno Valley, Pomona, and Fontana.
- B. Fontana-Pomona Service Area, which includes Bloomington, Chino, Claremont, Colton, Fontana, Mira Loma, Montclair, Ontario, Pomona, Rancho Cucamonga, Rialto, Riverside, San Bernardino, and Upland.

SECTION III. ROUTE DESCRIPTIONS.

Scheduled Service

Northbound - Commencing only from San Ysidro, then over the most convenient streets and highways to Temecula, Perris, Moreno Valley, Pomona, and Fontana. (See Note.)

Southbound - Commencing only from Perris, Pomona, or Fontana, then over the most convenient streets and highways to Temecula, Moreno Valley and San Ysidro. (See Note.)

Note: Carrier is authorized to transport passengers in scheduled service between Perris, Pomona, and Fontana without having to transport such passengers to or from San Ysidro.

SECTION III. ROUTE DESCRIPTIONS (CONCLUDED).

On-Call Service

In conjunction with scheduled service, carrier is authorized to unload passengers on an on-call basis at points in the Fontana-Pomona Service Area as described in Section IIB. This service is only available to passengers embarking at San Ysidro.